ORIGINAL

Supreme Court, U.S. F I L E D

JUN 1 1984

ALEXANDER L STEVAS

No. 83-1817

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1983

WILLIAM HARKINS, et al. Petitioners

-vs-

INTERSTATE MOTOR FREIGHT SYSTEM, et al., Respondents.

RESPONDENT'S MOTION TO DEFER CONSIDERATION PURSUANT TO 11 U.S.C. SECTION 362

Robert J. Hollingsworth Attorney for Respondent Interstate Motor Freight System

Cors Bassett Kohlhepp Halloran & Moran 1700 Carew Tower 441 Vine Street Cincinnati, Ohio 45202 513/381-0312

et gil

IN THE SUPREME COURT OF THE UNITED STATES

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:

WILLIAM HARKINS, et al.,

Petitioners,

Case No. 83-1817

-vs-

INTERSTATE MOTOR FREIGHT

memorandum set forth below.

RESPONDENT'S MOTION TO DEFER CONSIDERATION PURSUANT TO

SYSTEM, et al.,

11 U.S.C. SECTION 362

Respondents.

Respondent Interstate Motor Freight System moves this honorable court for an order staying further consideration of Petitioners William Harkins, et al.'s petition for writ of certiorari. The grounds for this motion are contained in the

MEMORANDUM IN SUPPORT

On April 11, 1984 Respondent Interstate Motor Freight System ("Interstate") filed a voluntary petition of bankruptcy in the United States Bankruptcy Court for the Western District of Michigan under Chapter 11 of the United States Bankruptcy Code. A copy of this petition is attached hereto as Exhibit A. Acting upon this petition and in accordance with 11 U.S.C. Section 362, the Bankruptcy Judge issued an automatic stay order prohibiting certain actions from commencing or proceeding against Interstate. A certified copy of said automatic stay order is attached hereto as Exhibit B.

Section 362(a)(1) of the Bankruptcy Code provides that the filing of a bankruptcy petition operates as a stay of:

the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title . . .

The complaint in this action was filed on May 1, 1975, about nine years before Interstate's bankruptcy proceeding was

commenced. Accordingly, since this action is a claim arising prior to Interstate's bankruptcy proceeding, it is thus subject to the Section 362 automatic stay order issued by the United States Bankruptcy Court for the Western District of Michigan and further proceedings in it should be stayed.

CONCLUSION

For the foregoing reasons, Respondent Interstate Motor Freight System submits that its motion to defer consideration pursuant to 11 U.S.C. Section 362 is well taken and should be granted.

Respectfully submitted,

Robert J. Hollingsworth Attorney for Respondent

Interstate Motor Freight System

Cors Bassett Kohlhepp Halloran & Moran 1700 Carew Tower 441 Vine Street Cincinnati, Ohio 45202

AFFIDAVIT OF SERVICE

STATE OF OHIO)
COUNTY OF HAMILTON)
SS:

I, Robert J. Hollingsworth, after being first duly sworn according to law, do hereby certify that three copies of the foregoing Motion have been deposited in a United States mailbox with first class postage prepaid on this 30 day of May, 1984 and sent to Paul H. Tobias, 911 Clopay Building, 105 East Fourth Street, Cincinnati, Ohio 45202, and Mark A. Greenberger, Suite 1400, 105 East Fourth Street, Cincinnati, Ohio 45202.

Robert J. Hollingsworth Attorney for Respondent

Sworn to before me and subscribed in my presence this day of May, 1984.

Notary Public

TEPHEN S. HOLMES, Attorney at Low MOTARY PUBLIC - STATE OF CHIO My Commission has no expiration Mate, Section 147.03 O.R.C.

UNITED STATES BANKRUPTO	CY COURT FOR THE	DISTRICT OF	
, an re			Case No.
Interstate	Motor Freight Sys		CHAPTER 11
Lipiover's	Identification nu		VOLUNTARY CASE:
	include here all names us	imber 38-0679046 ed by debter within last 6 years.	DEBTOR'S PETITION
1. Petitioner's post-	office address is		46-84-0088
110 Ioni	ia Ave. N.W		110-01-00 91
Grand Ra	apiūs, MI 49503	*	
		thin this district for the pro	ecoding 180 days. district for the preceding 189 days.
	resided or been domiciled	or had principal	place of business within this district for
	a longer portion of the pr	the contract the title	ny other district.
3. Petitioner is quali	fied to file this potition and is	entitled to the Long.	itle 11. United States Code as a volun-
tary debtor.		continue to the benefits of f	itle 11. United States Code as a volun-
4. D A copy of page	tioner's proposed plan dated		
Petitioner inter	de to 61 and 1		19 is attached
- mice	nds to file a plan pursuant to c	hapter 11 of title 11, United	States Code.
5. Exhibit A is attach	sed to and made a part of this	Patition *	S = 3 D
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oigned:	46		
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SECRETARY'S CERTIFICATE

I, Michael P. Zell, Vice President - General Counsel and Secretary of Interstate Motor Freight System, do hereby certify that the resolutions adopted by the Executive Committee of the Board of Directors of the Company shown below are in full force and effect upon the date of execution of this document.

Protection Under Chapter 11 of the Bankruptcy Code

WHEREAS, This Corporation may be in need of the protection afforded by Chapter 11 of the Bankruptcy Code; NOW, THEREFORE, be it:

RESOLVED, That the Chairman of the Board, President, or any Vice President, of Interstate Motor Freight System be and they are hereby authorized, empowered and directed on behalf of the Corporation or any of its wholly-owned subsidiaries to prepare and file for the Corporation and its various wholly-owned subsidiaries, if necessary, a Petition for Relief under Chapter 11 of the Bankruptcy Code and all other necessary papers in connection therewith in the Bankruptcy Court for the Western District of Michigan as provided by said Bankruptcy Code, and further, to perform all other acts and take all and any other steps in the name and on behalf of the Corporation or any of its wholly-owned subsidiaries, necessary and appropriate in connection with said Chapter 11 case; and the Chairman of the Board, President, and/or any Vice President, be and they are hereby authorized on behalf of this Corporation or any of its wholly-owned subsidiaries, to employ the law firm of Varnum, Riddering, Schmidt and Howlett of 800 Mutual Home Building, 171 Monroe Avenue, N. W., Grand Rapids, Michigan to act as attorneys for the Corporation or any of its wholly-owned subsidiaries in connection with all matters relating to the carrying out of the intent and purpose of this resolution.

Witness my hand and seal of the Corporation this ____ day of April, 1984.

Michael P. Zell

Vice President - General Counsel and Secretary

Exhibit "A"

Interstate Motor Freight System 110 Ionia Ave. NW Suite 7000 Grand Rapids, MI 49503

FOR COURT USE ONLY

F.C.

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	DAYE PETITION FILED 23 -7			
	CASE H	CASE HUMBER		
		1		
	BANKRUPT	BANKRUPTCY JUDGE		
1. Petitioner's employer's identification number	is38-0679040	1 2		
2. If any of the petitioner's securities are register	red under section 12 of the	Securities and Exchange		
Act of 1934, SEC file number is 09-389				
3. The following financial data is the latest avail March 25, 1984	lable information and refers	to petitioner's condition on		
a. Total assets: \$ 59,035,603.00				
b. Liabilities:				
		APPROXIMATE		
Secured debt, excluding that listed below	3 50,886,741.00	10		
Debt securities held by more than 100 holders:	\$N/A	N/A		
Secured	\$			
Unsecured	\$			
Other liabilities, excluding contingent or unliquidated claims	\$_1,059,828	137		
Number of shares of common stock	4.035.000	14,180		
Comments, if any:				
4. Brief description of petitioner's business: Hol	ding Company of Motor	Freight Transportation		
00-50-8610115				
5. The name of any person who directly or indirectly or in	rectly owns, controls, or holds	s, with power to vote, 25%		
6. The names of all corporations 25% or more of the directly owned, controlled, or held, with power to	voic, by petitioner are _ in	rs, inc., interstate		
SYSTEM STEEL DIVISION, INC., SOUTHWES	T FREIGHT LINES, INC.	, TRANSPORTATION &		
BUSINESS SYSTEMS, INC., COAST TO COAST	T TRANSPORTATION, INC	. CROSS COUNTRY CARRIERS		

INC., SOUTHWEST CONTINENTAL FREIGHT LINES, INC.

INTERSTATE MOTOR FREIGHT SYSTEM 38-0679040 TWENTY LARGEST UNSECURED CREDITORS

April 11, 1984

Alex Brown & Sons	150,000.00
135 E. Baltimore St.	130,000.00
Baltimore, MD 21202	
Ernst & Whinney	132,670.00
Spite 1000	232,070.00
171 Monroe, N.W.	
Grand Rapids, Michigan 49503	
Varnum, Riddering, Schmidt & Howlett	111,991.54
Suite 800	241,531.34
171 Monroe, N.W.	
Grand Rapids, Michigan 49503	
Old Republic Insurance Co.	85,000.00
P.O. Box 789	037000.00
Greensburg, PA 15601	
Hebb & Gitlin	80,789.36
One State St.	00,703.30
Hartford, CT 06103	
Pilot Insurance Agency	56,250.00
P.O. Box 203	30,230.00
Winston-Salem, NC 27102	77
· ·	7 m 2
Ohio Bureau Workers Compensation	33.508-12 -
246 N. High St.	- 3
Columbus, Ohio 43215	33,598712 4 25 PH BU
	1 2
Prudential Insurance Co.	32,602.48
Group Administration Dir.	1 × × 1
P.O. Box 9436	1
Minneapolis, MN 55440	
Morgan, Lewis & Bockius	23,579.15
One Logan Square	23,3/9.15
Philadelphia, PA 19103	
Morris, Rose & Ledgett	30 000 00
Suite 6000	20,000.00
145 King St., West	
Toronto, Ontario, Canada M5H3K4	
Workers Compensation Board	16,749.00
P.O. Box 401	20,745.00
Albany, NY 12201	

- Continued -

INTERSTATE MOTOR FRE T SYSTEM TWENTY LARGEST UNSECURED CREDITORS (CONTINUED) PAGE 2 OF 2

Cupac, Inc.	
P.O. Box 4783	14,912.00
Boston, MA 02212	
Connecticut Bank & Trust	
Corporation Trust Dept.	12,000.00
One Constitution Plaza	
Hartford, CT 06115	
Kasen, Kraemer, Burns & Lovell, PA	
1180 Raymond Blvd.	10,066.02
Hewark, NJ 07102	
Young & Perl, P.C.	
Suite 2380	8,695.41
One Commerce Square	
Memphis, TN 38103	
Alexander & Alexander of Michigan, Inc.	6 350 00
600 Fisher Bldg.	6,250.00
Detroit, Michigan 48202	
Mortimer A. Sullivan Jr.	4 701 62
43 Court Ct.	4,781.53
Buffalo, NY 14202	
Crawford & Co.	4 620 00
P.O. Box 5047	4,628.00
Atlanta, GA .30302	
Makovsky & Co.	3 056 53
370 Lexington Ave.	3,856.52
New York, NY 10017	
Eastman & Smith	3 500 10
800 United Savings Bldg.	3,500.12
Toledo, Ohio 43604	

APRIL 425 PUTO

OTALES DENKEL					
INITED STATES BANKEU	TOTAL PUR THE	Dist	TRICT OF		Case No.
IMFS, INC	c		1	CHAP	TER 11
Debue Employer	s Identification	n number 30	2265007	VOLUNTA	RY CASE:
Depui	Include here all na	inies used by debtor wit	hin last 6 years		PETITION
1. Petitioner's por					
				56	84-0
Grand F	nia Ave., N.W.				
2. Petitioner has	Rapids, MI 49503				
	resided or been domi a lunger portion of t	ne within this distributed place of business ciled or had the preceding 180 d	ict for the precedi s within this distri principal place lays than in any o	of husiness with	nin this district
3. Petitioner is qui	alified to file this petition a	nd is antitled to the			
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SECRETARY'S CERTIFICATE

I, Stanley E. Aumaugher, Vice President - Controller of IMFS, Inc., do hereby certify that the resolutions adopted by the Executive Committee of the Board of Directors of the Company shown below are in full force and effect upon the date of execution of this document.

Protection Under Chapter 11 of the Bankrupte; Code
WHEREAS, This Corporation may be in need of the protection afforced by
Chapter 11 of the Bankruptcy Code; NOW, THEREFORE, be it:

RESOLVED, That the President, or any Vice President, of INFS, Inc. d/b/a Interstate System, be and they are hereby authorized, expowered and directed on behalf of the Corporation to prepare and file for the Corporation, if necessary, a Petition for Relief under Chapter 11 of the Bankruptcy Code and all other necessary papers in connection therewith in the Bankruptcy Court for the Western District of Michigan as provided by said Bankruptcy Code, and further, to perform all other acts and take all and any other steps in the mame and on behalf of the Corporation, necessary and appropriate in connection with said Chapter 11 case; and the President, and/or any Vice President, be and they are hereby authorized on behalf of this Corporation to employ the law firm of Varnum, Riddering, Schmidt and Howlett of 800 Mutual Home Building, 171 Monroe Avenue, N. W., Grand Rapids, Michigan to act as attorneys for the Corporation in connection with all matters relating to the carrying out of the intent and purpose of this resolution.

Stanley E. Ausaugher
Vice President - Controller

Exhibit "A"

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Inc. cria Ave. NW Rapids, MI 49503 Petitioner's employer's identification number in any of the petitioner's securities are registered of 1934, SEC file number is	DAYE PEYOR CASE OF SAMKRUPT 38-2365097 ed under section 12 of the	T USE ONLY ITION FILED NUMBER TOY JUDGE E Securities and Exchange
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f any of the petitioner's securities are registered of 1934, SEC file number isN/A	ed under section 12 of the	e Securities and Exchange
of 1934, SEC file number isN/A		•
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rch 25, 1984	iole information and refers	to petitioner's condition on
Total assets: \$ 21,081,155		
Liabilities:		
		APPROXIMATE NUMBER OF HOLDERS
Secured debt, excluding that listed below	\$ N/A	** 3 M
Debt securities held by more than 100 holders:	\$N/A	
Secured	\$	
Unsecured	\$	27
Other liabilities, excluding contingent or unliquidated claims	\$ 21,753,138	10,60
Number of shares of common stock	50,000	1
Brief description of petitioner's lusiness:MC	otor Freight Carrier	
The name of any person who directly or indirectly of indirectly of indirectly of individual in International Inter	ectly owns, controls, or ho erstate Motor Freigh	lds, with power to vote, 25:
The names of all corporations 25% or more of t	he outstanding voting see	wities of which are directly
	Secured debt, excluding that listed below Debt securities held by more than 100 holders: Secured Unsecured Other liabilities, excluding contingent or unliquidated claims Number of shares of common stock Comments, if any: Brief description of petitioner's business: Methodology of indirectly or indirectly or indirectly or indirectly of the voting securities of petitioner isinterpretations 257 or more of the names of all comporations 257 or more of the securities of petitioner isinterpretations 257 or more of the securities of petitioner isinterpretations 257 or more of the securities are securities asinterpretations 257 or more of the securities are securities asinterpretations 257 or more of the securities are securities asinterpretations 257 or more of the securities are securities asinterpretations 257 or more of the securities are securities asinterpretations 257 or more of the securities are securities asinterpretations 257 or more of the securities are securities asinterpretations 257 or more of the securities are securities asinterpretations 257 or more of the securities are securities asinterpretations 257 or more of the securities are securities asinterpretations 257 or more of the securities are securities asinterpretations 257 or more of the securities are securities asinterpretations 257 or more of the securities are securities asinterpretations 257 or more of the securities are securities asinterpretations 257 or more of the securities are securities asinterpretations 257 or more of the securities are securities asinterpretations 257 or more of the securities are securities asinterpretations 257 or more of the securities are securities asinterpretations 257 or more of the securities are securities asinterpretations 257 or more of theinterpretations 257 or more of theinterpreta	Liabilities: Secured debt, excluding that listed below \$ N/A Debt securities held by more than 100 holders: \$ N/A Secured \$ Unsecured \$ Other liabilities, excluding contingent or unliquidated claims \$ 21,753,138

IMFS, INC. 38-2365097 LARGEST UNSECURED CREDITORS

April 6, 1984

U

Armco Insurance Group, Inc. P.O. Box 85435	1,000,000
Dallas, TX 75285	
Goodyear Tire & Rubber Co.	668,285
P.O. Box 84001	
Dallas, TX 75284	
Immanuel Transport, Inc.	538,348
13920 Mica St.	
Santa Fe Springs, CA 90670	
Ashland Petroleum Co.	376,329
Dept. L - 238	
Columbus, OH 43260	
Cental Pennsylvania Teamsters	190,€12
Pension Fund	10 Z Z
Reading, PA 19603	The state of the s
Cental States Pension Fund	596,792
Chicago, Illinois 60631	B
Central States H & W Fund	596,792 EU A 27 PM
Chicago, Illinois 60631	**************************************
Rozay's Transfer	183,947
2315 Nadgau St.	
Huntington Park, CA 90255	
Duthler Leasing, Inc.	164,535
461 28th St., S.E.	
Grand Rapids, Michigan 49507	
Gator Freightways Inc.	146,016
2175 Commwealth	
Jacksonville, FLA 32209	
Ohio Highway Drivers	126,558
Insurance fund	
Dayton, OH 45402	
Teamsters Local 429	137,359
Welfare Fund	
Reading, PA 19603	
Greyhound Computer Corp.	133,636
P.O. Box 96775	
Chicago, Illinois 60693	

McDowell Oil Service, Inc.	116,134	
P.O. Box 29		
Bloomsburg, PA 17815		
Bruce Johnson Trucking	111,328	
P.O. Box 5647		
Charlotte, NC 28225		
Silver Eagle Co.	104,055	
12855 48th Ave., So.	204,033	
Seattle, Washington 98168		
Brondes Mtr Sales Inc.	95,223	
5717 Secor Road		
Toledo, Ohio 43623		
Trucking Employees of North Jersey	90,126	
Welfare Fund Inc.		
707 Summit Ave.		
Union City, NJ 07087		
Lakeshore Business forms	87,220	
P.O. Box 924		2 5 1
Sandusky , Ohio 44870	51	= 1
D.E. X Press	77,218	APR 11 A 27 PH 'BU
P.O. Box 423		16.
La Canada, CA 91011		3
		- 3
Michigan Conference of Teamsters	66,331	200
Welfare Fund		## E
Box 1033A		
Detroit, Michigan 48232	*	
Western PA Teamsters	72,460	
Welfare Fund		
50 Penn Circle W.		
Pittsburgh, PA 15206		
International Business Machines	70,653	
P.O. Box 6966	,	
Cleveland, Ohio 44101		
Nu Trend Tire & Service Co.	64,663	
1510 N. Grand River Ave.		
Lansing, Michigan 48906		
Michigan Bell Telephone Company	59,531	
P.O. Box 5030	00,004	
Saginaw, Michigan 48663		

LARGET UNSECURED CREATORS (CONTINUED) .

Special Par

Duthler Ford Truck Inc. 4525 Clay S.W.	53,421
Grand Rapids, Michigan 49509	
General Electric Credit Corp.	53,402
P.O. Box 309 Northbrook, Illinois 60062	
Bi State Ford Truck Sales	53,360
P.O. Box 5036	
1125 E. Alexis Road	
Toledo, Ohio 43611	
M.D.F.C. Equipment Leasing Corp.	52,251
P.O. Box 96573	
Chicago, Illinois 60693	
Cummings CTL Ohio, Inc.	45,514
4000 Lyman Dr.	
Box 10	
Hilliard, Ohio 43026	

)



At a Court of Chkruptcy held in and Rapids, Michigan, this day of PRESENT:		and for a stade
IMFS,	INC., Debtor.	CASE NO. HG 84-00881

NOTICE OF STAY OF PROCEEDINGS

TO: ALL CREDITORS OF THE ABOVE-CAPTIONED DEBTOR(S); THEIR ATTORNEYS, ALL SHERIFFS, MARSHALLS AND COURT OFFICERS.
ALL OTHER PERSONS WITH NOTICE OF THIS ORDER.

IN RE

Pursuant to the provisions of Section 362 of the Bankruptcy Code (11 USC 362) you are hereby enjoined and stayed from commencing or continuing any action at law or suits or proceedings in equity against said debtor in any court, or from executing or issuits or causing the execution or issuance out of any court of any writ, process, summons, attachment, subposens, replevin execution or other process for the purpose of impounding or taking possession of or interfering with or enforcing a lien upon any property owned by or in the possession of the said debtor, and from doing any act or thing whatsoever to interfere with the possession or management of said debtor of the property and assets of the within estate, or in any way interfere with said debtor in the discharge of its duties herein, or to interefere in any manner during the pendency of this proceedings with the exclusive jurisdiction of this court over said debtor and its properties; and all persons, firms or corporations owning any lands or buildings occupied by said debtor or wherein is contained any property of the within estate be, and you are hereby jointly and severally stayed, pending the further order of this court, from removing or interfering with any such property.

This stay does not in any way modify the provisions of 11 USC 362. You should consult this statute to determine applicable exceptions.

APR 1 2 1994

ATTEST: A TRUE COPY
RICHARD D. JACKSON
CLERK OF COURT

Bankruptcy Court Judge

CERTIFIED AS A 11-01
RICHARD D. JACKSON, CLL....

BY

Deputy Clerk